

### Restriction Requirement

Applicants maintain their traversal of the restriction requirement for the reasons of record. In particular, the Examiner completely ignores the traversal between Groups 1 and 2, wherein the Office is required to establish two-way distinctness. At best, the Examiner has established one-way distinctness which is an insufficient basis for maintaining the restriction requirement. With regard to the Examiner's unsupported assertion that an undue burden is created in examining inventions sharing substantial structural similarities, properties and classification, more is required to establish the existence of a burden than mere allegation. Furthermore, MPEP § 803.02 and the case law cited therein precludes restriction in this instance. With regard to the Examiner's assertion that current Office policy is to ignore the MPEP § 803.04 and the Commissioner Notice of November 19, 1996, no support for the assertion is provided. With regard to 35 U.S.C. § 103(b), election under this section substantially renders the grounds for restriction moot.

### Claim Objection

The amendments to the claim render the objection moot.

### 35 U.S.C. 112 Second Paragraph Rejection

The amendments to the claim render the rejection moot.

### 35 U.S.C. 102 Rejections


The claims have been amended to clearly avoid the fusion proteins of the Chang *et al.* (*J. Of Virology*), Lee *et al.* (*J. Of Virology*) and Bonelli (EP 0,485,347) which teach fusion proteins of the full length HDAG. No motivation to select the particular fragment set forth in the claim or other coiled coil oligomer is provided. Withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned at (978) 341-0036.

Respectfully submitted,

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MARKED UP VERSION OF AMENDMENTS

Claim Amendments Under 37 C.F.R. § 1.121(c)(1)(ii)

1. (Amended) A fusion molecule comprising (a) a peptide consisting essentially of amino acids 12 to 88 of the hepatitis delta antigen (HDAg) or a fragment thereof that forms a coil and (b) [HDAg and] at least one binding moiety.
2. (Amended) The fusion molecule of Claim 1 wherein the binding moiety is selected from the group consisting of an antigen, an antibody, a single chain antibody, a ligand, a receptor, an enzyme, [a ligand interaction peptide, a chemical, an effector,] an oligonucleotide, [a signal amplification peptide, an enhancer recognition protein,] a promoter binding protein, a label, a growth factor, a cytokine, a nuclease, [a small organic molecule, a test substance, a cytotoxic agent, a substrate, a solid substrate,] or a drug [or a fragment thereof].
5. (Amended) The fusion molecule of Claim 1 wherein (a) [the HDAg] and (b) [the binding moiety] are chemically linked.
6. (Amended) The fusion molecule of Claim 1 wherein the (a) [HDAg] and (b) [the binding moiety] are expressed as a single unit.